

Senate File 584

SENATE FILE _____
BY GRONSTAL

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the provision of medical services and
2 evaluation of permanent disabilities of injured employees
3 under workers' compensation laws, and providing an
4 applicability date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 2895XS 82
7 av/je/5

PAG LIN

1 1 Section 1. Section 85.27, subsection 4, Code 2007, is
1 2 amended to read as follows:
1 3 4. For purposes of this section, the employer is obliged
1 4 to furnish reasonable services and supplies to treat an
1 5 injured employee, and the employee has the right to choose the
1 6 care. ~~If the employer chooses the care, the~~ The employer
1 7 shall hold the employee harmless for the cost of the care
1 8 ~~until the employer notifies the employee that the employer is~~
~~1 9 no longer authorizing all or any part of the care and the~~
~~1 10 reason for the change in authorization. An employer is not~~
~~1 11 liable for the cost of care that the employer arranges in~~
~~1 12 response to a sudden emergency if the employee's condition,~~
~~1 13 for which care was arranged, is not related to the employment~~
1 14 chosen. The treatment must shall be offered promptly provided
1 15 in a timely manner and be reasonably suited to treat the
1 16 injury without undue inconvenience to the employee. If the
1 17 employer or employee has reason to be dissatisfied with the
1 18 care offered or provided, the employer or employee should
1 19 shall communicate the basis of such dissatisfaction to the
1 20 employee or employer, in writing ~~if requested~~, following which
1 21 the employer and the employee may agree to alternate care
1 22 reasonably suited to treat the injury. If the employer and
1 23 employee cannot agree on such alternate care, the commissioner
1 24 may, upon application and reasonable proofs of the necessity
1 25 therefor, allow and order other care. ~~In an emergency, the~~
~~1 26 employee may choose the employee's care at the employer's~~
~~1 27 expense, provided the employer or the employer's agent cannot~~
~~1 28 be reached immediately. An application made under this~~
1 29 subsection shall be considered an original proceeding for
1 30 purposes of commencement and contested case proceedings under
1 31 section 85.26. The hearing shall be conducted pursuant to
1 32 chapter 17A. Before a hearing is scheduled, the parties may
1 33 choose a telephone hearing or an in-person hearing. A request
1 34 for an in-person hearing shall be approved unless the
1 35 in-person hearing would be impractical because of the distance
2 1 between the parties to the hearing. The workers' compensation
2 2 commissioner shall issue a decision within ten working days of
2 3 receipt of an application for alternate care ~~made pursuant to~~
~~2 4 a telephone hearing or within fourteen working days of receipt~~
~~2 5 of an application for alternate care made pursuant to an~~
~~2 6 in-person hearing. The~~ After receiving notice of an injury,
2 7 the employer shall promptly notify an injured employee of the
2 8 employee's ability to contest the employer's choice of right
2 9 to choose care pursuant to this subsection and the employer
2 10 and the employer's insurer shall not make suggestions or
2 11 otherwise attempt to influence the injured employee's choice
2 12 of a treating physician.
2 13 When it is medically indicated that no significant
2 14 improvement from an injury is anticipated, the employer shall
2 15 obtain a medical opinion regarding the extent of the
2 16 employee's permanent disability and may arrange for a medical
2 17 examination of the injured employee in order to do so. The
2 18 employee shall be paid wages, at the employee's regular rate,

~~2 19 plus whatever reasonable transportation expenses are incurred
2 20 while attending the examination. The physician chosen by the
2 21 employer to conduct the examination has the right to confer
2 22 with and obtain from any physician retained by the injured
2 23 employee sufficient history of the injury to make a proper
2 24 examination. The refusal of the employee to submit to the
2 25 examination shall suspend the employee's right to any
2 26 compensation during the period of the refusal. Compensation
2 27 shall not be payable for the period of the suspension.~~

2 28 Sec. 2. Section 85.39, unnumbered paragraph 1, Code 2007,
2 29 is amended to read as follows:

~~2 30 After an injury, the employee, if requested by the
2 31 employer, shall submit for examination at some reasonable time
2 32 and place and as often as reasonably requested, to a physician
2 33 or physicians authorized to practice under the laws of this
2 34 state or another state, without cost to the employee; but if
2 35 the employee requests, the employee, at the employee's own
3 1 cost, is entitled to have a physician or physicians of the
3 2 employee's own selection present to participate in the
3 3 examination. After the employer obtains a medical opinion
3 4 regarding the extent of an injured employee's permanent
3 5 disability pursuant to section 85.27, subsection 4, and if the
3 6 injured employee believes that the evaluation of the permanent
3 7 disability contained in the opinion is too low, the employee
3 8 has the right to obtain another medical opinion from a
3 9 physician of the employee's choice, at the employer's expense.~~

~~3 10 If an employee is required to leave work for which the
3 11 employee is being paid wages to attend the requested an
3 12 examination to obtain another medical opinion, the employee
3 13 shall be compensated at the employee's regular rate for the
3 14 time the employee is required to leave work, and the employee
3 15 shall be furnished transportation to and from the place of
3 16 examination, or the employer may elect to pay the employee the
3 17 reasonable cost of the transportation. The refusal of the
3 18 employee to submit to the examination shall suspend the
3 19 employee's right to any compensation for the period of the
3 20 refusal. Compensation shall not be payable for the period of
3 21 suspension.~~

3 22 Sec. 3. Section 85.39, unnumbered paragraph 2, Code 2007,
3 23 is amended by striking the unnumbered paragraph.

3 24 Sec. 4. APPLICABILITY DATE. This Act applies to injuries
3 25 occurring on or after January 1, 2008.

3 26 EXPLANATION
3 27 This bill relates to the provision of medical services and
3 28 evaluation of permanent disabilities of injured employees
3 29 under the workers' compensation law.
3 30 Code section 85.27, subsection 4, is amended to give an
3 31 injured employee, instead of the employer, the right to choose
3 32 the provider of medical services, at the employer's expense.
3 33 If either the employee or the employer is dissatisfied with
3 34 the care offered or provided, written notice must be given to
3 35 the other party, and upon application and hearing the workers'
4 1 compensation commissioner may allow and order other care. A
4 2 decision for alternate care must be issued by the commissioner
4 3 within 10 working days after receipt of the application for
4 4 alternate care.

4 5 Upon receiving notice of an injury, an employer is also
4 6 required to promptly notify an injured employee of the
4 7 employee's right to choose medical care and the employer and
4 8 the employer's insurer are prohibited from making suggestions
4 9 or otherwise attempting to influence the injured employee's
4 10 choice of a treating physician.

4 11 When it is medically indicated that no significant
4 12 improvement from an injury is anticipated, the employer is
4 13 required to obtain a medical opinion regarding the extent of
4 14 the employee's permanent disability and may arrange for a
4 15 medical examination of the injured employee in order to do so.
4 16 The employee must be paid regular wages and reasonable
4 17 transportation expenses incurred while attending the
4 18 examination. The physician chosen by the employer is entitled
4 19 to confer with and obtain from any physician retained by the
4 20 injured employee sufficient history to conduct a proper
4 21 examination. The refusal of an employee to submit to the
4 22 examination suspends the employee's right to any compensation
4 23 during the period of the refusal. Compensation is not payable
4 24 for the period of the refusal.

4 25 Code section 85.39 is amended to provide that after the
4 26 employer obtains a medical opinion regarding the extent of an
4 27 injured employee's permanent disability pursuant to Code
4 28 section 85.27, subsection 4, and if the employee believes the
4 29 extent of permanent disability identified in the opinion is

4 30 too low, the employee has the right to obtain another medical
4 31 opinion from a physician of the employee's choice, at the
4 32 employer's expense.
4 33 The bill is applicable to injuries occurring on or after
4 34 January 1, 2008.
4 35 LSB 2895XS 82
5 1 av:rj/je/5